



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** H. Angelo & Company, Inc.

**File:** B-244682.2

**Date:** October 30, 1991

Michael C. Spring, Esq., Carey, Dwyer, Eckhart, Mason & Spring, P.A., for the protester.

Michael R. Strauss, Esq., Hollander & Groner, Bill C. Giallourakis, Esq., and Nicos Trataros, for Moniaros Contracting Corp., Sharp Construction Co., Inc., and Trataros Construction, Inc., interested parties.

Herbert F. Kelley, Jr., Esq., and Maj. Bobby G. Henry, Jr., Esq., Department of the Army, for the agency.

Catherine M. Evans, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

Protest alleging that solicitation estimated quantities were inaccurate and resulted in materially unbalanced bids is denied where record supports reasonableness of agency's estimates and contains no evidence of overstated prices necessary to support allegation of unbalanced bidding.

### DECISION

H. Angelo & Company, Inc. protests the award of any contract under invitation for bids (IFB) No. DABT35-91-B-0018, issued by the Department of the Army for maintenance and repair of family housing at Fort Dix, New Jersey. Angelo alleges that the IFB estimated quantities were defective, resulting in materially unbalanced bids.

We deny the protest.

The IFB requested prices based on the agency's workload estimates for 236 different repair tasks. Four firms submitted bids by the June 24, 1991 bid opening. Evaluated total prices of the bids were as follows:

Trataros Construction Co., Inc.	\$1,899,572.50
Moniaros Contracting Corp.	1,920,638.00
Sharp Construction Co., Inc.	1,944,315.00
Angelo	5,486,510.00

Angelo alleges that, based on the bid prices received, it is apparent that the IFB workload estimates did not accurately represent the agency's actual anticipated needs. In this regard, Angelo asserts that the three low bidders apparently were familiar with the agency's actual requirements under the previous contract (a 1990 contract) and thus were able to structure their line item prices to take advantage of the possibility that the government will order less than the stated quantities of lower-priced items and more than the stated quantities of higher-priced items. In support of this assertion, Angelo offers a comparison of IFB estimated quantities to actual quantities ordered under the 1990 contract for 13 different line items. The comparison shows that, although the agency has ordered from 80 percent less to 245 percent more of those items than it had estimated, the IFB in question here nevertheless used the same estimates as the 1990 IFB. Angelo concludes that the IFB did not reflect the agency's most recent experience, and encouraged unbalanced bidding among bidders familiar with the agency's actual requirements, placing Angelo at an improper competitive disadvantage.

Where estimates are provided in a solicitation, they must be based on the best information available; while the estimates must present a reasonably accurate representation of the agency's anticipated actual needs, there is no requirement that they be absolutely correct. The Saxon Corp., B-232694 et al., Jan. 9, 1989, 89-1 CPD ¶ 17.

The record does not support Angelo's claim that the IFB estimates were defective. While the agency concedes that it was unable to incorporate the actual 1990 quantities into the current IFB because the solicitation was prepared before the data was available, it notes that the 1990 actual quantities would not have been a reliable indicator of its anticipated needs under the new contract due to the unique circumstances that existed during the 1990 contract period. Specifically, the agency explains that the sometimes large differences between the actual and estimated quantities were primarily the result of personnel changes during the Desert Shield and Desert Storm operations. In contrast to the 1990 actual quantities, the actual quantities ordered under the 1989 contract closely match the 1990 and current IFB estimates. Under these circumstances, we find that the agency reasonably concluded that its 1990 estimates, rather than the actual 1990 quantities, were still the best indication of its anticipated needs. Given this conclusion, there is no basis for Angelo's speculation that other bidders may have had a competitive advantage by virtue of their knowledge of the 1990 quantities.

In addition, the record does not support Angelo's allegation of unbalanced bidding. Before a bid can be rejected as

unbalanced, it must be found both mathematically and materially unbalanced. A bid is mathematically unbalanced where it is based on nominal prices for some of the items and overstated prices for other items. Thus, in order to prove that a bid is mathematically unbalanced, the protester must offer evidence that the bid contains both understated and overstated prices. OMSERV Corp., B-237691, Mar. 13, 1990, 90-1 CPD ¶ 271. While Angelo alleges that the three low bidders "would suffer economic catastrophe" if they were required to provide the estimated quantities of certain line items at the prices bid, it does not allege that the bids contained any overstated prices. Its assertion that the bids are unbalanced is therefore without merit. To the extent that Angelo finds the low bidders' prices for certain line items unreasonably low, there is nothing legally objectionable in the submission of a below-cost bid. Atlantic Maintenance, Inc., B-239621.2, June 1, 1990, 90-1 CPD ¶ 523. Whether a bidder can perform at its offered price is a matter of the firm's responsibility, which we will not review absent circumstances not present here. 4 C.F.R. § 21.3 (m) (5) (1990); ALM, Inc., B-225679.3, May 8, 1987, 87-1 CPD ¶ 493.

The protest is denied.



*for* James F. Hinchman  
General Counsel